

be maintained for the tops and sides of all accessible structures within the protected area. This interpretation is consistent with that given by the Commission's staff to affected licensees and applicants at a series of regional meetings held in March of 1977 and will be reflected in forthcoming revisions to NUREG 0220, Draft Interim Acceptance Criteria for a Physical Security Plan for Nuclear Power Plants (March 1977).

(d) 10 CFR 73.55(d)(1) provides in pertinent part: The search function for detection of firearms, explosives, and incendiary devices shall be conducted either by a physical search or by use of equipment capable of detecting such devices.

(e) The requester contends that until "equipment capable of detecting such devices" is in place, a licensee need not comply with the search requirement, but can utilize instead previous security programs. This contention is based on the first sentence of 10 CFR 73.55 which provides in pertinent part that the requirements of paragraph (d) of that section shall be met by May 25, 1977, "except for any requirement involving construction and installation of equipment not already in place expressed in (paragraph)(d)(1) \* \* \*". Under this sentence only those requirements of paragraph (d) which involve "construction and installation of equipment" do not take effect on May 25, 1977. Because a "physical search" does not require "construction and installation of equipment", implementation of such searches is required on May 25, 1977. The regulation provides alternative: "the search function \* \* \* shall be conducted either by a physical search or by use of equipment \* \* \*". Thus when appropriate equipment is in place, the search function need not involve a physical search.

(f) The paragraphs above set forth interpretation of regulations; they do not apply those regulations to particular factual settings. For example, no effort is made to state what lighting system might be used for a given facility; all that is stated is that a system must provide not less than 0.2 footcandle for all exterior areas within the protected area. Similarly, no effort is made to define what is an adequate "physical search"; all that is stated is that, in

the absence of appropriate equipment, such searches must begin on May 25, 1977.

[42 FR 33265, June 30, 1977]

## PART 9—PUBLIC RECORDS

### Sec.

- 9.1 Scope and purpose.
- 9.3 Definitions.
- 9.5 Interpretations.
- 9.6 Communications.
- 9.8 Information collection requirements: OMB approval.

### Subpart A—Freedom of Information Act Regulations

- 9.11 Scope of subpart.
- 9.13 Definitions.
- 9.15 Availability of records.
- 9.17 Agency records exempt from public disclosure.
- 9.19 Segregation of exempt information and deletion of identifying details.
- 9.21 Publicly available records.
- 9.23 Requests for records.
- 9.25 Initial disclosure determination.
- 9.27 Form and content of responses.
- 9.28 Predisclosure notification procedures for information containing trade secrets or confidential commercial or financial information.
- 9.29 Appeal from initial determination.
- 9.31 Extension of time for response.
- 9.33 Search, review, and special service fees.
- 9.34 Assessment of interest and debt collection.
- 9.35 Duplication fees.
- 9.37 Fees for search and review of agency records by NRC personnel.
- 9.39 Search and duplication provided without charge.
- 9.40 Assessment of fees.
- 9.41 Requests for waiver or reduction of fees.
- 9.43 Processing of requests for a waiver or reduction of fees.
- 9.45 Annual report to the Attorney General of the United States.

### Subpart B—Privacy Act Regulations

- 9.50 Scope of subpart.
- 9.51 Definitions.

#### PROCEDURES APPLICABLE TO REQUESTS BY INDIVIDUALS FOR INFORMATION, ACCESS OR AMENDMENT OF RECORDS MAINTAINED ABOUT THEM

##### PRESENTATION OF REQUESTS

- 9.52 Types of requests.
- 9.53 Requests; how and where presented.
- 9.54 Verification of identity of individuals making requests.

## § 9.1

- 9.55 Specification of records.
- 9.56 Accompanying persons.

### NRC PROCEDURES FOR PROCESSING REQUESTS

- 9.60 Acknowledgement of requests.
- 9.61 Procedures for processing requests for records exempt in whole or in part.
- 9.62 Records under control of another Government agency.

### DETERMINATIONS AND APPEALS

- 9.65 Access determinations; appeals.
- 9.66 Determinations authorizing or denying correction of records; appeals.
- 9.67 Statements of disagreement.
- 9.68 NRC statement of explanation.
- 9.69 Notices of correction or dispute.

### DISCLOSURE TO OTHERS OF RECORDS ABOUT INDIVIDUALS

- 9.80 Disclosure of record to persons other than the individual to whom it pertains.
- 9.81 Notices of subpoenas.
- 9.82 Notices of emergency disclosures.

### FEES

- 9.85 Fees.

### ENFORCEMENT

- 9.90 Violations.

### EXEMPTIONS

- 9.95 Specific exemptions.

### Subpart C—Government in the Sunshine Act Regulations

- 9.100 Scope of subpart.
- 9.101 Definitions.
- 9.102 General requirement.
- 9.103 General provisions.
- 9.104 Closed meetings.
- 9.105 Commission procedures.
- 9.106 Persons affected and motions for reconsideration.
- 9.107 Public announcement of Commission meetings.
- 9.108 Certification, transcripts, recordings and minutes.
- 9.109 Report to Congress.

### Subpart D—Production or Disclosure in Response to Subpoenas or Demands of Courts or Other Authorities

- 9.200 Scope of subpart.
- 9.201 Production or disclosure prohibited unless approved by appropriate NRC official.
- 9.202 Procedure in the event of a demand for production or disclosure.
- 9.203 Procedure where response to demand is required prior to receiving instructions.
- 9.204 Procedure in the event of an adverse ruling.

## 10 CFR Ch. I (1–1–06 Edition)

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Subpart A also issued under 5 U.S.C. 552; 31 U.S.C. 9701; Pub. L. 99–570.

Subpart B is also issued under 5 U.S.C. 552a.

Subpart C also issued under 5 U.S.C. 552b.

### § 9.1 Scope and purpose.

(a) Subpart A implements the provisions of the Freedom of Information Act, 5 U.S.C. 552, concerning the availability to the public of Nuclear Regulatory Commission records for inspection and copying.

(b) Subpart B implements the provisions of the Privacy Act of 1974, 5 U.S.C. 552a, concerning disclosure and availability of certain Nuclear Regulatory Commission records maintained on individuals.

(c) Subpart C implements the provisions of the Government in the Sunshine Act, 5 U.S.C. 552b, concerning the opening of Commission meetings to public observation.

(d) Subpart D describes procedures governing the production of agency records, information, or testimony in response to subpoenas or demands of courts or other judicial or quasi-judicial authorities in State and Federal proceedings.

[52 FR 49355, Dec. 31, 1987]

### § 9.3 Definitions.

As used in this part:

*Commission* means the Commission of five members or a quorum thereof sitting as a body, as provided by section 201 of the Energy Reorganization Act of 1974.

*Government agency* means any executive department, military department, Government corporation, Government-controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency.

*NRC* means the Nuclear Regulatory Commission, established by the Energy Reorganization Act of 1974.

*NRC personnel* means employees, consultants, and members of advisory boards, committees, and panels of the NRC; members of boards designated by